Supreme Court, U.S.
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NO. 89-1734

Supreme Court of the
United States

Term: October 1990

Thomas V. Cassidy, Appellant-Petitioner,	]	Petition For Writ of Certiorari To The United States Court of Appeals For the Seventh Circuit
-vs-	]	
United States of America, Commissioner of Internal Revenue, Appellee-Respondent.	]	

RULE 15.7 SUPPLEMENTAL BRIEF TO PETITION FOR WRIT OF CERTIORARI

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Appellant-Petitioner,
Pro se.
Thomas V. Cassidy
2648 Sharondale Circle, N.E.
Atlanta, Georgia 30305
404/237-0494

SUPPLEMENTAL BRIEF

AS TO:

ONE

QUESTIONS PRESENTED FOR REVIEW

I.

In this case the U.S. court of appeals for the 7th circuit has rendered decisions on the same matter in conflict with decisions of other U.S. courts of appeal of the eleventh (11th) Judicial Circuit in *In Re Burns*, *887 F.2d 1541 (11th Cir. November 13, 1989)* and the tenth (10th) Judicial Circuit in *Roberts v. United States of America, Commissioner of Internal Revenue Service*, 906 F.2d 1440 (10th Cir. June 27, 1990) [*The Appellee-Respondent C.I.R.S. filed no Petition for Rehearing and the mandate issued from the Tenth Circuit Court of Appeals on August 13, 1990*] affirming *94 B.R. 707 (Bankr. N.D. Okla. 1989) affirmed on appeal (B. Okla. No. 89-C-*

46-B 1989)] on the issue of the dischargeability of federal tax penalties and deficiencies *[11 U.S.C., sec. 523 (a) (7) (A) (B)]* associated and related to taxing years which preceded the filing of bankruptcy petitions by more than three (3) years.

II.

By virtue of this Court's Rule 15.1 the Respondent herein is deemed to have waived Petitioner's issue presented under QUESTIONS PRESENTED FOR REVIEW, ONE, I, as above set out.

SUPPLEMENTAL BRIEF

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SUPPLEMENTAL BRIEF

THREE

ADDITIONAL AUTHORITY, STATEMENT OF FACT, ARGUMENT AND SUGGESTIONS TO THE COURT

Subsequent to Petitioner Cassidy timely filing his Petition For Writ Of Cetiorari with the Court on May 7, 1990, the United States Court of Appeals for the Tenth Circuit on June 27, 1990 filed its opinion in ***Roberts v. United States of America, Commissioner of Internal Revenue Service***, 906 F.2d 1440 (10th Cir. June 27, 1990) [*The Appellee-Respondent C.I.R.S. filed no Petition for Rehearing with the 10 Circuit and the mandate issued from the Tenth Circuit Court of Appeals on August 13, 1990*] affirming *94 B.R. 707 (Bankr. N.D. Okla. 1989) affirmed on appeal (B. Okla. No. 89-C-46-B 1989)]*. The complete text of the Tenth Circuit Court of Appeals opinion in

the *Roberts* Case, supra, was heretofore on July 17, 1990 furnished to the Court and Respondent by Petitioner Cassidy.

The *Roberts Case*, supra, was cited in Petitioner Cassidy's Petition For Writ of Certiorari at pages 1, 44, 47 and 49 under QUESTIONS PRESENTED FOR REVIEW, number "One", *I., [94 B.R. 707 (Bankr. N.D. Okla., 10 Cir. 1989) affirmed on appeal (B. Okla. No. 89-C-46-B 1989)].*

Thus, as of June 27, 1990 by the affirmance of the United States Tenth (10th) Circuit Court of Appeals of the *Roberts Case*, supra, in conformity with the holding *In Re Burns*, 887 F.2d 1541 (11th Cir. Nov. 13, 1989) [Petition For Writ of Certiorari pages 1, 42, 46 and 47] there now exists between United States Circuits a conflict as to issue QUESTIONS PRESENTED FOR REVIEW, ONE, I., above set out, between the 10th and 11th Circuit Court of Appeals and the 7th

Circuit Court of Appeals in this instant appeal on the same matter as to call for an exercise of this Court's power of supervision.

Petitioner's Petition For Writ of Cetiorari was timely filed herein on May 7, 1990 (Monday) which was fifty-one (51) days before the 10th Circuit Court of Appeals filed it affirming opinion in the *Roberts Case*, supra, and the Respondent's Brief In Opposition was filed on or about July 9, 1990, ostensibly late or pursuant to a very questionable extension in which to file late,\End Note 1. twelve days after the 10th Circuit Court of Appeals filed its affirming opinion in the *Roberts Case*, supra, yet Respondent did not bring to this Court's attention the decision of the 10th Circuit Court of Appeals of June 27, 1990 in the *Roberts Case*, supra, and in fact did not answer

or reply to the *Roberts Case*, supra, anywhere in its Brief In Opposition. This conflict between United States Judicial Circuits is most relevant to this appeal.

By virtue of this Court's Rule 15.1 Respondent is deemed to have waived the issue presented under **QUESTIONS PRESENTED FOR REVIEW, ONE, I.**, above set out:

> ***Any defect of this sort in the proceedings below that does not go to the jurisdiction may be deemed waived if not called to the attention of the Court by the respondent in the brief in opposition.*** (Emphasis added) ***U.S. Supreme Court rule 15.1.***

The *Roberts Case*, supra, and the *Burns Case*, supra, were fully disclosed and discussed by the parties and the United States 7th Circuit Court of Appeals in the proceedings below and does not go to the jurisdiction of this Court in this appeal.

Other than this document the Petitioner will file no further Court Rule 15.7 supplemental brief, but will file a Court Rule 15.6 Reply to Brief of the United States, Commissioner of Internal Revenue Service in Opposition, prior to the scheduled Justices conference on September 24, 1990.

CONCLUSION

Appellant-Petitioner Thomas V. Cassidy, pro se, requests that the writ issue.

Respectfully submitted,

THOMAS V. CASSIDY, Pro se.
Appellant-Petitioner on
Petition for writ of
certiorari.

2648 Sharondale Circle, N.E.
Atlanta, Georgia 30305
404/237-0494

Atlanta, Georgia
September 7, 1990

End Note 1:

Contrary to this Court's rules Respondent's request for extension was in letter-form without a copy to Petitioner, nor proof of service, nor an opportunity for Petitioner to object, especially so in view of the judgment interest running on the judgment appealed from.